IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl.Rev.No.442 of 1992

Date of Decision: September 13, 2006

Balwan Singh son of Om Parkash, resident of Village Bass District HisSar.

.....Appellant

VERSUS

State of Haryana

.....Respondent

CORAM:- HON'BLE MR.JUSTICE R S MADAN

PRESENT: Mr.Atul Lakhanpal,Advocate
for the appellant.

Mr.SS Goripuria, Deputy Advocate General,
Haryana.

R S MADAN, J.

This Criminal Revision Petition have arisen out of the order dated 13-7-1992 passed by the learned Additional Sessions Judge, Rohtak whereby he has affirmed the judgment of the Judicial Magistrate Ist Class, Rohtak dated 17-12-1991, who convicted and sentenced the accused as under:

U/S 304A of the Indian Penal Code :	R.I. for two years and fine of Rs.2000/- or in default of payment of fine to further R.I. for three months.

U/S 337 of the Indian Penal Code :	R.I. for six months and fine of Rs.500/- or in default of payment of fine to further R.I. for one month.
U/S 338 of the Indian Penal Code :	R.I. for two years and fine of Rs.500/- or in default of payment of fine to further R.I. for one month.

All these substantive sentences shall run concurrently.

In brief the facts of the case are that the petitioner was prescribed to stand trial under Sections 304-A/ 337/338 of the Indian Penal Code on a complaint filed by Satbir Singh-complainant Ex.PW5/A wherein he reported that on 5-9-1983, he was going on his cycle to Meham from his village to purchase household articles. At about 5.45 P.M., a truck bearing No.HRS 4215 being driven by the petitioner rashly and negligent came from Meham side and caused the accident in which some persons had died and some persons received multiple injuries. The said truck, thereafter, had fallen into pits and turned turtle. All the injured were taken to the hospital in a Haryana Roadways Bus, which came from Meham side. After recording the statement of Satbir Singh-complainant, the Investigating Officer made endorsement for the registration of the case. He went to the spot, prepared the site plan and took into possession the dead bodies for post-mortem examination. The injured were got medico legally examined, statements of the witnesses were recorded. The accused was also arrested and after completion of the investigation of the case, challan against the accused was presented before the Court for its trial according to law.

On appearance, the accused was charged under Sections 304-A, 337, 338 of the Indian Penal Code, to which he pleaded not guilty and claimed trial.

To bring home the guilt of the accused, the prosecution examined as many as 29 witnesses. PW1 Sri Niwas, PW2 Baje, PW4 Tara Chand, PW7 Indraj, PW8 Umed Singh, PW24 Sant Lal, PW25 Anand Singh, PW26 Prem Singh and PW29 Ghasi Ram identified the dead bodies of their relations. PW5 Satvir is the complainant. PW6 Bharpai, PW10 Krishan, PW12 Shanti, PW13 Prem Singh, PW14 Sadhu Singh, PW17 Balwan, PW19 Ganga Bishan, PW20 Channo, PW21 Om Parkash, PW22 Laje Ram, PW23 Ramesh and PW28 Rajpati are the injured and other eye witnesses. PW3 Ishwar is the recovery witness, who proved the recovery memo Ex.PA and Ex.PB vide which blood stained earth and truck were taken into possession by the police. PW9 Dhanpat Singh C.No.893 took the dead bodies in the Medical College and Hospital, Rohtak for post-mortum examination. PW11 Harish Chander is photographer who proved the photos Ex.P18 to P20 prepared on the basis of negatives Ex.P11 to Ex.P17. PW15 Dr.Anup Singh Yadav and PW16 Dr.SC Batra examined the injured. PW18 Tej Bhan is the conductor No.77 Haryana Roadways, Bhiwani, who took the injured in the bus to Civil Hospital, Bhiwani for treatment after the accident. PW27 Hazari Lal is the motor mechanic, who proved the test report Ex.PW7/A about the truck No.HRS-4215 driven by the accused.

After the evidence of the prosecution was closed, the accused was examined under Section 313 Cr.P.C. in which entire version of the prosecution was put to him to which he denied and pleaded innocence.

In defence accused has examined Sajjan Singh as DW1.

With the aforesaid evidence appearing on the record, the accused was convicted and sentenced as mentioned above.

Aggrieved by the impugned order of conviction and sentence, the petitioner filed an appeal before the Additional Sessions Judge, Rohtak, who maintained the order of conviction and sentence passed by the Judicial Magistrate Ist Class, Rohtak.

The petitioner has now challenged through this revision petition the order of conviction and sentence maintained by the Court of the Additional Sessions Judge, Rohtak.

I have heard the learned counsel for the parties.

At the very outset, learned counsel for the revisionist submitted that keeping in view the number of deaths and injured involved in the accident, he does not challenge the order of conviction. However, on the quantum of sentence, he prays for leniency.

To support his contention, learned counsel further submitted that the accident in the instant case took place on 5-9-1983 and the petitioner suffered the agony of trial for nine years before the learned Magistrate as well as during the pendency of appeal. The sword of Damocles of conviction has been hanging on the head of the petitioner even during the pendency of the revision petition for a period of 14 years. In this way, the petitioner has suffered the agony of trial for a period of 23 years. He is entitled to the provisions of protected trial. He has already undergone a period of 30 days sentence out of the sentence awarded by the Judicial Magistrate Ist Class, Rohtak. Therefore, the order of sentence may be modified to the sentence already undergone by the petitioner.

I am not impressed with the submissions of the learned

counsel for the petitioner because in the instant cast more than 11 persons have suffered death and 26 persons have suffered grievous as well as simple injuries in a road side accident due to rash and negligent driving of the petitioner. No leniency in the matter of sentence is called for in this case.

Accordingly, the order of sentence passed by the Judicial Magistrate Ist Class, Rohtak and affirmed by the learned Additional Sessions Judge, Rohtak in his order dated 13-7-1992 does not call for any interference.

As a sequel thereto, there is no merit in this revision petition and the same is hereby dismissed.

(R S MADAN)
JUDGE

September , 2006
jt